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KELLEY DRYE & WARREN LLP

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

October 30, 2001

ROBERT J. AAMOTH

DIRECT LINE (202) 955-9676

E-MAIL: raamoth@kelleydrye.com

**Via Hand Delivery**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554


*Re: Ex Parte Presentation in IB Docket No. 96-98*

Dear Ms. Salas:

Today the undersigned attorney, on behalf of ITC ^DeltaCom Communications, Inc. met with Jordan Goldstein in Commissioner Copps' office. The attached *ex parte* letter, which was distributed at the meeting, fully and accurately describes the contents of the meeting.

Please address any inquiries to the undersigned attorney.

Respectfully submitted,

  
Robert J. Aamoth

cc: Jordan Goldstein

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445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

*Re: Ex Parte Presentation in IB Docket No. 96-98*

Dear Ms. Salas:

On October 25, 2001, representatives of ITC^DeltaCom Communications, Inc. ("ITC^DeltaCom") met with the Common Carrier Bureau regarding ITC^DeltaCom's petition dated August 16, 2001 in this proceeding. In that petition, ITC^DeltaCom sought a ruling from the FCC that it is entitled to obtain the so-called enhanced extended loop ("EEL") for a specific network configuration identified in the petition. ITC^DeltaCom was represented by Jerry Watts, Steve Moses, Tim Ford and the undersigned attorney, while the Common Carrier Bureau was represented by Dorothy Attwood, Jeffrey Carlisle, Chris Libertelli, Kathy Farroba and Brent Olson. In addition, the ITC^DeltaCom representatives met with Sam Feder from Commissioner Martin's offices on this subject on the same day.

In the meetings, ITC^DeltaCom emphasized that its petition is narrowly tailored. The petition applies to a specific network configuration – an end-to-end DS1 EEL without the use of a collocation arrangement where there is channelized usage of a Special Access DS3 entrance facility – that is particularly suitable for ITC^DeltaCom's business plan of providing a suite of voice and data services to business customers in secondary and other underserved markets. Further, ITC^DeltaCom has not sought UNE rate ratcheting for the DS3 entrance facility as part of this request. ITC^DeltaCom noted that obtaining this EEL is critical to its ability to sustain entry into many smaller cities in its service region, and that ITC^DeltaCom may be forced to exit one or more of those

Ms. Magalie Roman Salas  
October 29, 2001  
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markets if this request is not granted quickly. (I have attached a list of cities that ITC^DeltaCom serves on a facilities basis in the U.S. Southeast.)

Further, we emphasized that granting our petition would promote local competition in historically underserved markets without in any way compromising the FCC's ongoing consideration of policy and legal issues regarding EELs in the above-referenced docket. We noted that the Commission indicated in its *Supplemental Order Clarification* in this docket in June, 2000 that it would entertain petitions where the requesting carrier satisfies the "significant amount of local traffic" standard. There is no dispute on the record that ITC^DeltaCom satisfies the local usage test under the third safe harbor, and therefore the petition should be granted.

At the Bureau's request, ITC^DeltaCom performed calculations regarding its cumulative average circuit costs under various scenarios. For purposes of these calculations, ITC^DeltaCom used applicable services and rates from Alabama. On a per-DS1 basis, granting the petition would reduce ITC^DeltaCom's cumulative average costs for loop and transport (including entrance facilities) by approximately 11% in the first month, and the size of the reduction would rise to 37% after 24 months, based on conservative growth assumptions. By contrast, having redundant EEL and Special Access entrance facilities would increase ITC^DeltaCom's cumulative average costs for loop and transport (including entrance facilities) over the current situation by 55% in the first month. While the cost penalty of maintaining redundant Special Access and EEL facilities would go down over time, at no time would it be more efficient for ITC^DeltaCom to maintain redundant entrance facilities than to operate via the EEL configuration requested in the petition. After 24 months, the redundant entrance facility configuration would be 32% more costly on a per-DS1 basis than the EEL configuration.


Lastly, ITC^DeltaCom wishes by this letter to clarify for the record that its petition includes not only the network configuration where it obtains a DS1 interoffice facility from the ILEC on a UNE basis, but also the configuration where there is no interoffice transport facility at all (*i.e.*, a DS1 loop is muxed directly onto a DS3 entrance facility). We request that the order granting our request apply to both configurations.

KELLEY DRYE & WARREN LLP

Ms. Magalie Roman Salas  
October 29, 2001  
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The attached letters in support of ITC^DeltaCom's petition were distributed at both meetings.

Respectfully submitted,



Robert J. Aamo

cc: Dorothy Attwood  
Jeffrey Carlisle  
Sam Feder  
Kathy Farroba  
Chris Libertelli  
Brent Olson

COMMISSIONERS:

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## Georgia Public Service Commission

(404) 856-4501  
1 (800) 282-5813

246 WASHINGTON STREET, S.W.  
ATLANTA, GEORGIA 30334-8701

FAX: (404) 856-3341  
www.psc.state.ga.us

September 28, 2001

Via Facsimile and Regular Mail

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, D.C. 20554

Re: Petition of ITC^DeltaCom For Waiver in Docket No. 96-98

Dear Chairman Powell:

This is to advise you of my support of the EEL's Waiver Request filed by ITC^DeltaCom on August 17, 2001.

I agree with ITC^DeltaCom's statements regarding the implications for serving secondary markets where there is generally a lack of facilities based competitive options. During this time of constrained capital markets in the telecom sector, policy makers at the state and federal level should take all prudent steps to provide incentives to emerging local competitors to serve secondary and rural markets.

Again, I urge you to approve this waiver and to move ahead as expeditiously as possible to remove unnecessary limitations on the use of EEL's.

Sincerely,

David L. Burgess  
Commissioner

cc: All Commissioners  
Dorothy Atrwood

STATE OF ALABAMA  
ALABAMA PUBLIC SERVICE COMMISSION  
P O BOX 991  
MONTGOMERY, ALABAMA 36101-0991

JIM SULLIVAN, PRESIDENT  
JAN COOK, ASSOCIATE COMMISSIONER  
GEORGE C. WALLACE, JR., ASSOCIATE COMMISSIONER

WALTER L. THOMAS, JR.  
SECRETARY

October 18, 2001

Dorothy Attwood, Chief  
Common Carrier Bureau  
Federal Communications Commission  
445 12th Street S.W.  
Washington, D.C. 20554

Re: Petition of ITC^DeltaCom for a Waiver in Docket No. 96-98

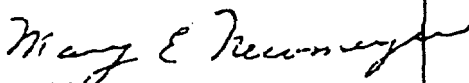
Dear Ms. Attwood:

This letter is to advise you that the Alabama Public Service Commission (APSC) supports the petition filed by ITC^DeltaCom on August 17, 2001, for a waiver of the enhanced extended link (EEL) safe harbor requirements established in the *Supplemental Order Clarification* in Docket 96-98.

Having reviewed the filing and the comments of other parties the APSC believes the granting of this waiver, at this time, is justified and will ultimately benefit the consumers of Alabama. The two non-rural ILECs in Alabama account for 90% of the access lines in the state. There are numerous secondary and rural markets in Alabama where there is generally a lack of facility based competitive options. The APSC agrees with ITC^DeltaCom's statements that given the increased cost of capital over the last eighteen months, the company's ability to obtain EELs for the provision of local services will play a critical role in its entry and exit decisions in the secondary and rural areas. In its petition, ITC^DeltaCom is seeking a very limited waiver to efficiently serve its local exchange customers and not to bypass the ILECs special access tariffs. Both state and federal policy makers should take all prudent steps to provide incentives to emerging local competitors to serve secondary and rural markets.

The Alabama Commission urges you to approve this waiver and to move ahead as expeditiously as possible to remove unnecessary limitations on the use of the EELs.

Respectfully,  
Alabama Public Service Commission

By:   
Mary E. Newmeyer  
Federal Affairs Advisor

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ALABASTER	AL	GURLEY	AL
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ATHENS	AL	HOLTVILLE	AL
ATTALLA	AL	HUNTSVILLE	AL
AUBURN	AL	HURTSBORO	AL
BAYMINETTE	AL	JACKSON	AL
BELLEFONTN	AL	JACKSONVL	AL
BESSEMER	AL	JASPER	AL
BIRMINGHAM	AL	KILLEN	AL
BOAZ	AL	LAFAYETTE	AL
BREWTON	AL	LEIGHTON	AL
CALERA	AL	LEXINGTON	AL
CARBONHILL	AL	LINDEN	AL
CENTREVL	AL	LIVINGSTON	AL
CHELSEA	AL	MADISON	AL
CHILDERSBG	AL	MAPLESVL	AL
CITRONELLE	AL	MARION	AL
CLANTON	AL	MCINTOSH	AL
CLAYTON	AL	MOBILE	AL
COLUMBIANA	AL	MONTEVALLO	AL
CORDOVA	AL	MONTGOMERY	AL
COURTLAND	AL	MOULTON	AL
CULLMAN	AL	MT VERNON	AL
DADEVILLE	AL	MUNFORD	AL
DALEVILLE	AL	NEWVILLE	AL
DECATUR	AL	OHATCHEE	AL
DEMOPOLIS	AL	OPELIKA	AL
DORA	AL	PARRISH	AL
DOTHAN	AL	PHENIXCITY	AL
EUFULA	AL	PIEDMONT	AL
EUTAW	AL	PINSON	AL
FAIRHOPE	AL	PRATTVILLE	AL
FLOMATON	AL	RED BAY	AL
FLORENCE	AL	RUSSELLVL	AL
FORT DEPOSIT	AL	SELMA	AL
FORT PAYNE	AL	SHEFFIELD	AL
GADSDEN	AL	SYLACAUGA	AL
GARDENDALE	AL	TALLADEGA	AL
GOODWATER	AL	THOMASVL	AL
GRAYSVILLE	AL	TOWN CREEK	AL
GREENSBORO	AL	TROY	AL
GUNTERSVL	AL	TRUSSVILLE	AL

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YORK	AL	TAMPANTH	FL
BELLEGLADE	FL	TAMPASTH	FL
BOCA RATON	FL	TAMPAWST	FL
BRONSON	FL	TRENTON	FL
CEDAR KEYS	FL	VERO BEACH	FL
CHIPLEY	FL	WILDWOOD	FL
CLEARWATER	FL	WPALMBEACH	FL
CRAWFORDVL	FL	YULEE	FL
CROSS CITY	FL	ZEPHYRHILLS	FL
CRYSTALRIV	FL	ADAIRSVL	GA
DADE CITY	FL	ALBANY	GA
DAYTONABCH	FL	ATHENS	GA
DELAND	FL	ATLANTA	GA
DELRAY BCH	FL	ATLANTA NE	GA
EASTORANGE	FL	ATLANTA NW	GA
FORTPIERCE	FL	ATLANTA SO	GA
FTLAUDERDL	FL	AUGUSTA	GA
GAINESVL	FL	BAINBRIDGE	GA
JACKSOLBCH	FL	BARNESVL	GA
JACKSONVL	FL	BOGART	GA
LAKE CITY	FL	BOWDON	GA
LAKELAND	FL	BRANCH	GA
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PACE	FL	COLUMBUS	GA
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KINGSTON	GA	PASCAGOULA	MS
LAGRANGE	GA	PURVIS	MS
LULA	GA	VICKSBURG	MS
LUTHERSVL	GA	WIGGINS	MS
MACON	GA	YAZOO CITY	MS
NEWNAN	GA	BELMONT	NC
ROCKMART	GA	BURLINGTON	NC
ROME	GA	CARY	NC
ROOPVILLE	GA	CHAPELHILL	NC
SANDERSVL	GA	CHARLOTTE	NC
SENOIA	GA	DURHAM	NC
SOCIAL	GA	GASTONIA	NC
SOCIALCRCL	GA	GREENSBORO	NC
SPARTA	GA	HUNTERSVL	NC
STATHAM	GA	RALEIGH	NC
TALLAPOOSA	GA	WINSTN SAL	NC
TEMPLE	GA	AIKEN	SC
THOMASVL	GA	ALLENDAL	SC
VALDOSTA	GA	ANDERSON	SC
VILLA RICA	GA	BAMBERG	SC
WARNERRBNS	GA	BARNWELL	SC
ZEBULON	GA	BATESBURG	SC
ABBEVILLE	LA	BELTON	SC
BATONROUGE	LA	BENNETTSVL	SC
BOGALUSA	LA	BLACKSBURG	SC
BROUSSARD	LA	BLACKVILLE	SC
COVINGTON	LA	BLNHEIM	SC
HOUMA	LA	BLUE RIDGE	SC
KENNER	LA	CAMDEN	SC
LAFAYETTE	LA	CENTRAL	SC
MANDEVILLE	LA	CHARLESTON	SC
MONROE	LA	CHERAW	SC
MORGANCITY	LA	CLEMSON	SC
NATCHITCS	LA	CLINTON	SC
NEW IBERIA	LA	CLIO	SC
NEWORLEANS	LA	COLUMBIA	SC
BILOXI	MS	COWPENS	SC
BRANDON	MS	DARLINGTON	SC
CLINTON	MS	DENMARK	SC
ENTERPRISE	MS	DILLON	SC
GULFPORT	MS	EASLEY	SC
HATTIESBG	MS	EASTOVER	SC

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GREER	SC		
HARTSVILLE	SC		
HONEA PATH	SC		
ISLE PALMS	SC		
JOANNA	SC		
JONESVILLE	SC		
LAKE VIEW	SC		
LATTA	SC		
LYMAN	SC		
MARION	SC		
MCCOLL	SC		
MTPLEASANT	SC		
MULLINS	SC		
NO AUGUSTA	SC		
ORANGEBURG	SC		
PACOLET	SC		
PELZER	SC		
PENDLETON	SC		
PICKENS	SC		
PIEDMONT	SC		
PROSPERITY	SC		
SALEM	SC		
SENECA	SC		
SIX MILE	SC		
SOCIETY HL	SC		
SPARTANBG	SC		
SRNGFLSLLY	SC		
ST GEORGE	SC		
SULLIVNSIS	SC		
SUMMERVL	SC		
TIMMONSVL	SC		
TRAVESREST	SC		
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CHATTNOOGA	TN		
CLEVELAND	TN		
COLUMBIA	TN		
FRANKLIN	TN		